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# THE JOURNAL OF APPELLATE PRACTICE AND PROCESS

ESSAY

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GEORGE WASHINGTON, ELENA KAGAN, AND  
THE TOWN OF GREECE, NEW YORK: THE FIRST  
AMENDMENT AND RELIGIOUS MINORITIES

Kermit V. Lipez\*

## I. THE VISION: PRESIDENT WASHINGTON IN NEWPORT

### *A. The President's Trip to Newport*

George Washington was inaugurated on April 30, 1789, following the ratification of the Constitution by nine of the thirteen original states. When Rhode Island became the thirteenth state to ratify the Constitution in May of 1790, Washington planned a trip to Newport to celebrate the completion of this new union.<sup>1</sup> Knowing that his trip would be publicized by newspapers throughout the states, Washington also hoped to use that publicity to win final ratification of the

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\* Senior Judge, United States Court of Appeals for the First Circuit. This essay is based on Judge Lipez's Yom Kippur Sermon at Etz Chaim Synagogue in Portland, Maine, on October 4, 2014.

1. Jonathan D. Sarna, *George Washington's Correspondence with the Jews of Newport*, in *TO BIGOTRY NO SANCTION: GEORGE WASHINGTON AND RELIGIOUS FREEDOM* 17 (2012) (indicating that Rhode Island had earlier been fearful that a small state's rights would be abused by the larger states).

Bill of Rights. Ratification was important for many reasons, including the perceived need for what became the First Amendment's Establishment and Free-Exercise Clauses.<sup>2</sup>

Religious discrimination was still a problem in the United States in the summer of 1790. Several of the states had only recently dismantled their established churches.<sup>3</sup> In Rhode Island, the most religiously tolerant of the new states, only white Protestant males could vote and hold public office.<sup>4</sup> Thus, religious minorities in the United States, aware of Washington's commitment to freedom of conscience and religion, greeted his selection as President enthusiastically, and some leaders of these minorities had sent congratulatory letters to him.<sup>5</sup> By the summer of 1790, Washington had responded to these letters, affirming his commitment to religious liberty.<sup>6</sup> Newport's small Jewish community hoped for similar reassurance when Washington and his party, including Secretary of State Thomas Jefferson, arrived in Newport by ship on the morning of August 17, 1790.

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2. Touro Synagogue National Historic Site, *History and Learning, Religious Liberties and the Bill of Rights, George Washington and His Letter to the Jews of Newport* 2, <http://www.tourosynagogue.org/history-learning/gw-letter> (scroll down to *Washington Comes to Newport, Rhode Island*) [hereinafter *Touro Analysis*] (accessed May 29, 2015; copy on file with Journal of Appellate Practice and Process).

3. See, e.g., Library of Congress, *Religion and the State Governments*, <http://www.loc.gov/exhibits/religion/rel05.html> (noting that Congregationalists and Anglicans received public financial support before 1776; discussing long tenure of established churches during colonial period; and describing provisions for taxes in support of churches chosen by individual taxpayers that were included in foundational documents like the Massachusetts Constitution of 1780) (accessed June 1, 2015; copy on file with Journal of Appellate Practice and Process).

4. See, e.g., ELI FABER, *A TIME FOR PLANTING: THE FIRST MIGRATION, 1654–1820*, at 100 (2005) (noting that “eighteenth-century Englishmen restricted the franchise and public office to males, property owners, and Protestants” and that legislative action in 1729 brought the colony of Rhode Island “firmly into line with prevailing political attitudes and practices” with respect to voting rights).

5. *Touro Analysis*, *supra* note 2 (scroll down to *Religion and Ratification*) (pointing out that “[f]ollowing his inauguration in April of 1789, Washington received many letters of congratulation from religious organizations (particularly those that had experienced discrimination in this country) each praising his leadership in the fight to maintain religious liberty in the new country”).

6. *Id.* (mentioning Washington's letters to Baptist churches in Virginia, to the General Assembly of Presbyterian churches, to Methodists, to Congregational ministers, and to Roman Catholics).

Newport's Jewish community had been the largest in the colonies when its twenty-five families founded the Touro Synagogue in 1763.<sup>7</sup> Most members of that community supported the Patriot cause during the Revolutionary War, and hence many had fled the British occupation of Newport in 1776.<sup>8</sup> Since many of them had not yet returned after the British retreat in 1779, the Jewish community of Newport at the time of Washington's visit consisted of only six families. Their leader was Moses Seixas, a banker, the grand master of Rhode Island's Masons, and the president of the Touro synagogue.<sup>9</sup>

### *B. The Washington–Seixas Correspondence*

Immediately after breakfast on the morning of August 18, 1790, prominent citizens of Newport, in the style of the day, read four open letters to the President and his traveling party. One letter was on behalf of the town. The second was a joint statement from the Christian clergy. The third was a greeting from the Masonic order read by Moses Seixas.<sup>10</sup> And then Seixas read a letter on behalf of the community of Jews.

Seixas began with a greeting to Washington that sounds odd to our ears: “Sir, permit the children of the stock of Abraham to approach you with the most cordial affection and esteem for your person and merits—and to join with your fellow citizens in welcoming you to Newport.”<sup>11</sup> After thanking God for shielding Washington “in the day of battle,” Seixas proceeded to his central point—a plea for a national government that would treat all of its citizens equally:

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7. See, e.g., Charles Reznikoff, *A Gallery of Jewish Colonial Worthies: Some Loyalists, Some Patriots*, <https://www.commentarymagazine.com/article/a-gallery-of-jewish-colonial-worthies-some-loyalists-some-patriots/> (noting that Newport had fifteen Jewish families in 1760, and that “[b]y 1769, the Jewish community had grown to twenty-five families”) (accessed July 14, 2015; copy on file with Journal of Appellate Practice and Process).

8. FABER, *supra* note 4, at 104 (reporting that “the exodus from Newport began even before the British seized it late in 1776”).

9. Sarna, *supra* note 1, at 17–18, 21 n.16.

10. *Id.* at 17.

11. *Id.* at 20. Seixas referred to the “stock of Abraham” to avoid using the word “Jew,” which had negative connotations among some Christians. *Id.* at 20 n.1.

Deprived as we heretofore have been of the invaluable rights of free Citizens, we now with a deep sense of gratitude to the Almighty disposer of all events behold a Government, erected by the Majesty of the People—a Government, which to bigotry gives no sanction, to persecution no assistance—but generously affording to all Liberty of conscience, and immunities of Citizenship:—deeming everyone, of whatever Nation, tongue, or language equal parts of the great Governmental Machine.<sup>12</sup>

Moved by Seixas's letter, Washington replied a few days after returning to New York, using some of Seixas's own language to confirm his commitment to equality of citizenship for all religious groups:

All possess alike liberty of conscience and immunities of citizenship. It is now no more that toleration is spoken of, as if it was by the indulgence of one class of people, that another enjoyed the exercise of their inherent natural rights. For happily the Government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support. . . . May the children of the stock of Abraham, who dwell in this land, continue to merit and enjoy the good will of the other inhabitants; while everyone shall sit in safety under his own vine and fig tree, and there shall be none to make him afraid.<sup>13</sup>

Washington's letter is notable in a number of ways. He insists that tolerance is not enough, pointing out that religious minorities do not enjoy freedom of conscience at the sufferance of others.<sup>14</sup> He acknowledges that it is instead a natural right that the government—giving to bigotry no sanction, to persecution no assistance—must always protect. And he invokes imagery from the messianic vision of the Old Testament prophet Micah to describe all Americans, no matter their religious beliefs,

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12. *Id.* at 20–21.

13. *Id.* at 23.

14. See Daniel L. Dreisbach, *The "Vine and Fig Tree" in George Washington's Letters: Reflections on a Biblical Motif in the Literature of the American Founding Era*, 76 J. ANGLICAN & EPISCOPAL HISTORY 299, 322 (Sept. 2007) (highlighting "Washington's clear articulation of America's greatest contribution to, and innovation of, political society—the abandonment of religious *toleration* in favor of religious *liberty*") (emphasis in original).

sitting in safety under their own vines and fig trees, content, tranquil, and self-sufficient.<sup>15</sup>

At first glance, however, there is one discordant note in Washington's letter—the suggestion that “the children of the stock of Abraham” will merit the protection of the government, and the good will of the other inhabitants, only if they “demean themselves as good citizens.” Scholars have determined, however, that Washington did not single out Jews for this conditional embrace. Instead, he had a general concern that the unwillingness of some citizens to accept the responsibilities of citizenship—payment of taxes being a prime example—threatened the new social order and the preservation of liberties won through the bloodshed of the Revolutionary War.<sup>16</sup> In short, Washington held people of every faith to the same standard of good citizenship.<sup>17</sup>

Washington's letter to the Jews of Newport has been recognized as one of the most important presidential statements about religious freedom in American history.<sup>18</sup> Its spirit of inclusion, insistence on equality of citizenship under the protection of the government, and disavowal of bigotry and persecution have reassured generations of religious minorities in this country of their secure place in our society.

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15. See *id.* at 299–301, 309 (reporting that Washington's collected correspondence contains almost fifty references to the version of the vine-and-fig-tree passage found at Micah 4:4, that it was Washington's “favorite scriptural phrase,” and that he returned to it “time and again”).

16. Sarna, *supra* note 1, at 23 n.8.

17. *Id.* (referring to a similar passage about good citizenship in Washington's letter to a group of Baptist churches).

18. See, e.g., Dan Merica, *A Letter's Journey, from Founding Father to Religious Question*, CNN Belief Blog (Sept. 30, 2011, 7:08 a.m.), <http://religion.blogs.cnn.com/2011/09/30/a-letters-journey-from-founding-father-to-religious-question/> (referring to opinions of a historian at Mount Vernon, a history professor at Brandeis, the director of communications at the Library of Congress, an expert in the field of colonial documents, and the founder of the George Washington Institute for Religious Freedom) (accessed June 17, 2015; copy on file with Journal of Appellate Practice and Process); see also George Washington Institute for Religious Freedom, *Washington's Letter, Influence of the Letter after 1790*, <http://www.gwirf.org/washingtons-letter/> (noting that “more than one historian has described the letter as the single most important document in American Jewish history”) (accessed June 17, 2015; copy on file with Journal of Appellate Practice and Process).

## II. THE VISION REALIZED: JUSTICE KAGAN IN NEWPORT

Justice Elena Kagan spoke at the Touro Synagogue<sup>19</sup> in Newport on August 18, 2013, at a ceremony commemorating the day on which Moses Seixas read his open letter to President Washington. Recalling then that Jews in Israel had asked her what it was like to live as a Jew in the diaspora, she said:

I have never thought about or experienced my life in that way. I am a Jew and I am an American, and not once have I thought of those two parts of my identity as in any tension with each other. Not once have I thought of myself as any less a Jew because I am an American or any less an American because I am a Jew. . . . Most Jews, in most places, in most times couldn't have said that.<sup>20</sup>

She added that American Jews “can feel that way only because Roger Williams’s commitment in Rhode Island eventually became the commitment of our country’s founders,” who “inscribed that commitment into our country’s Constitution, . . . modeled it from the earliest years of the republic, and . . . made it the reality of our lives.”<sup>21</sup>

Justice Kagan also invoked Washington’s letter to Seixas, in which “[h]e promised the Jews—and in doing so, he promised Americans of all faiths—equality of citizenship.”<sup>22</sup> She noted that Washington “committed to govern in the spirit not just of tolerance but of respect for differences,” and that “[h]e aspired to knit many people together to form a single national community, strong because of, and not despite, their varying beliefs and tenets.”<sup>23</sup> And she summed up the continuing importance of Washington’s letter by pointing out that “[e]very

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19. Dedicated in 1763, Newport’s Touro Synagogue is the oldest American synagogue still in use. See Touro Synagogue National Historic Site, <http://touro synagogue.org> (characterizing Touro as “America’s oldest synagogue” and indicating that it continues to be the home of Congregation Jeshuat Israel).

20. Elena Kagan, J., S. Ct. of the U.S., Keynote Address at 66th Annual George Washington Letter Reading (Aug. 18, 2013), *available at* <http://www.tourosynagogue.org/component/content/article/25-home-page/137-event-article-3> (click link to “excerpts from the program” to access video) (accessed June 10, 2015; copy on file with Journal of Appellate Practice and Process).

21. *Id.*

22. *Id.*

23. *Id.*

aspect of that lesson resonates today as much as it did in 1790.”<sup>24</sup>

Justice Kagan’s speech in Newport had a special resonance because, as a Jew, she has had a life in the law that exemplifies the fulfillment of Washington’s hope for members of religious minorities in the United States: that they would continue to be equal participants in a single national community.

### III. THE BLIND SPOT: GOVERNMENT-SANCTIONED PRAYER IN GREECE, NEW YORK

#### *A. The Facts*

The town of Greece, New York, an upstate community of 94,000, inaugurated a prayer practice in 1999 to solemnize the town council’s meetings, assigning a town employee to find a prayer-giver for each meeting. The employee proceeded informally, making calls every month to the congregations mentioned in the local newspaper or listed in a local directory (which contained only Christian churches) until she found an available minister.<sup>25</sup> As a result of this procedure, all of the prayer-givers at the town-council meetings from 1999 to 2007 were Christian ministers.<sup>26</sup> And about two-thirds of their prayers

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24. *Id.*

25. *Galloway v. Town of Greece*, 681 F.3d 20, 23–24 (2d Cir. 2012), *rev’d*, \_\_\_ U.S. \_\_\_, 134 S. Ct. 1811 (2014).

26. In a lengthy and thoughtful opinion written by Judge Calabresi, the Second Circuit described the results of the town employee’s search for the “chaplain of the month” in this way:

In practice, Christian clergy members have delivered nearly all of the prayers relevant to this litigation, and have done so at the town’s invitation. From 1999 through 2007, every prayer-giver who gave the invocation met this description. In 2008, after *Galloway* and *Stephens* had begun complaining to the town about its prayer practice, non-Christians delivered the prayer at four of the twelve Town Board meetings. A Wiccan priestess and the chairman of the local Baha’i congregation each delivered one of these prayers, and a lay Jewish man delivered the remaining two. The town invited the Wiccan priestess and the lay Jewish man after they inquired about delivering prayers; it appears that the town invited the Baha’i chairman without receiving such an inquiry. However, between January 2009 and June 2010, when the record closed, all the prayer-givers were once again invited Christian clergy.

*Id.* at 23. The Second Circuit also noted that the only non-Christian house of worship in Greece was a Buddhist temple, and that neither the temple nor the several synagogues



invoked “Jesus,” “Christ,” “your Son,” or the “Holy Spirit.” Prayers usually closed with phrases like “in the name of Jesus Christ,” or “in the name of your Son.”<sup>27</sup>

Not surprisingly, this town-sponsored prayer practice became controversial. Two residents of Greece—one a Jew, the other an atheist—sued the town, asserting that it had violated the Establishment Clause by preferring Christians over other prayer-givers and by sponsoring sectarian prayers. They sought an injunction that would limit the town to “inclusive and ecumenical” prayers that referred only to a “generic God” and would not associate the government with any one faith or belief.<sup>28</sup>

The complaining residents lost in the district court, which upheld the town’s prayer practice as consistent with the Establishment Clause. The Second Circuit reversed, concluding instead that the practice conveyed the message that the town was endorsing Christianity. The town successfully sought certiorari, and less than three months after Justice Kagan’s speech at Touro, the case was argued in the Supreme Court.<sup>29</sup> In early May of 2014, the Court held that the town’s prayer practice did not violate the Establishment Clause.<sup>30</sup>

### *B. The Supreme Court Opinion*

Writing for a five-member majority of the Court, Justice Kennedy rejected the notion that prayers offered at a town council meeting must be nonsectarian. As he put it, “[p]rayer that reflects beliefs specific to only some creeds can still serve to solemnize the occasion.”<sup>31</sup> He observed as well that adult citizens were the audience for these prayers, noting that “[o]ur

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located “just outside the town” were listed in the directory used by the town employee charged with finding the chaplain of the month. *Id.* at 23–24.

27. *Id.* at 24.

28. *Galloway v. Town of Greece*, 732 F. Supp. 2d 195, 210, 243 (W.D.N.Y. 2010), *rev’d*, 681 F.3d 20, 23 (2d Cir. 2012), *rev’d*, \_\_\_ U.S. \_\_\_, 134 S. Ct. 1811 (2014).

29. Oral Argument Tr., *Town of Greece v. Galloway*, \_\_\_ U.S. \_\_\_, 134 S. Ct. 1811 (Nov. 6, 2013) (No. 12-696), [http://www.supremecourt.gov/oral\\_arguments/argument\\_transcripts/12-696\\_3jqa.pdf](http://www.supremecourt.gov/oral_arguments/argument_transcripts/12-696_3jqa.pdf) (accessed June 12, 2015; copy on file with Journal of Appellate Practice and Process).

30. *Town of Greece v. Galloway*, \_\_\_ U.S. \_\_\_, 134 S. Ct. 1811 (2014).

31. *Id.* at 1823.

tradition assumes that adult citizens, firm in their own beliefs, can tolerate and perhaps appreciate a ceremonial prayer delivered by a person of a different faith.”<sup>32</sup>

He added that nonbelievers could react to the council-meeting prayers in several ways. If, for example, they “chose to exit the [council] room during a prayer they find distasteful, their absence will not stand out as disrespectful or even noteworthy.”<sup>33</sup> If they chose to remain in the room, their “quiet acquiescence will not, in light of our traditions, be interpreted as an agreement with the words or ideas expressed.”<sup>34</sup> In short, the Court held that there was nothing coercive about the prayer offered before each of the town council’s meetings; that it did not denigrate any other religion; and that it did not proselytize. Thus, the town’s prayer practice had a “permissible ceremonial purpose” compatible with the Establishment Clause.<sup>35</sup>

### *C. The Kagan Dissent*

The principal dissenter in *Town of Greece* was Justice Kagan. To dramatize the constitutional problems with Greece’s prayer practice, she used her opinion to set the scene: the four board members sitting at the front of the room on a raised platform before an audience that usually consists of no more than ten townspeople; a lectern emblazoned with the town’s seal positioned at the front of the platform; the town supervisor introducing a local pastor, who steps up to the lectern; the pastor standing with his back to the town officials and, facing the

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32. *Id.*

33. *Id.* at 1827.

34. *Id.*

35. *Id.* at 1828. *Town of Greece* was not the first case requiring the Supreme Court to address the compatibility of legislative prayer with the Establishment Clause. As Justice Kennedy noted at the outset of his majority opinion,

[i]n *Marsh v. Chambers*, 463 U.S. 783, the Court found no First Amendment violation in the Nebraska Legislature’s practice of opening its sessions with a prayer delivered by a chaplain paid from state funds. The decision concluded that legislative prayer, while religious in nature, has long been understood as compatible with the Establishment Clause.

*Id.* at 1818 (citation omitted). The complaining citizens in *Town of Greece* argued that the legislative prayer practice before the town council differed in numerous particulars from the legislative prayer practice of the Nebraska legislature. Justice Kagan emphasizes those differences in her dissent. See *id.* at 1842–43, 1845–49 (Kagan, J., dissenting).

citizens present, asking them all to stand and join him in prayer as he invokes the guidance of the Holy Spirit for the council members.<sup>36</sup> When the pastor concludes, Justice Kagan noted, “[t]own officials behind him make the sign of the cross, as do some members of the audience, and everyone says ‘Amen.’”<sup>37</sup>

Justice Kagan then imagined a Muslim resident of Greece who is present for this opening ritual only because she wants to conduct some business with the town council. When the pastor calls for group prayer, this Muslim woman (who could be a member of any religious minority) immediately faces a dilemma:

She does not wish to be rude to her neighbors, nor does she want to aggravate the Board members whom she will soon be trying to persuade. And yet she does not want to acknowledge Christ’s divinity, any more than many of her neighbors would want to deny that tenet. So assume she declines to participate with the others in the first act of the meeting—or even, as the majority proposes, that she stands up and leaves the room altogether. . . . At the least, she becomes a different kind of citizen, one who will not join in the religious practice that the Town Board has chosen as reflecting its own and the community’s most cherished beliefs. And she thus stands at a remove, based solely on religion, from her fellow citizens and her elected representatives.<sup>38</sup>

To emphasize her point that this scenario would violate the Establishment Clause, Justice Kagan explained her view that the “remarkable guarantee” that Washington made in the Seixas letter “means at least this much”:

When the citizens of this country approach their government, they do so only as Americans, not as members of one faith or another. And that means that . . . they should not confront government-sponsored worship that divides them along religious lines.<sup>39</sup>

But, she concluded, “the Town of Greece betrayed that

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36. *Id.* at 1846–47 (Kagan, J., dissenting).

37. *Id.* at 1847 (Kagan, J., dissenting).

38. *Id.* at 1850 (Kagan, J., dissenting) (citation omitted).

39. *Id.* at 1854 (Kagan, J., dissenting).

promise”<sup>40</sup> by requiring individuals who profess faiths other than mainstream Christianity to listen to a government-sponsored ceremonial prayer, unmistakably sectarian in character, as the price of doing business with the town.

When Justice Kagan filed this dissent, she was only nine months removed from the speech at Touro in which she said that she had never felt any tension between her identity as a Jew and her identity as an American. And yet she soon found herself dissenting from an opinion that sanctioned a governmental prayer practice whose principal defect was its failure to recognize and respect the religious diversity of this country.

#### *D. The Composition of the Court*

Supreme Court decisions cannot be reduced to biography. They reflect many factors, including law, policy, politics, and personal history. Still, it is a fact that today’s Court includes six Catholic members and three Jewish members. Is it significant that the five justices in the *Town of Greece* majority were all Catholics, which makes them members of a religious group that is now one of the largest in the country?<sup>41</sup> Is it also significant that the Court’s three Jewish members were joined in dissent by Justice Sotomayor—a Catholic, but also a Puerto Rican who has

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40. *Id.* (Kagan, J., dissenting).

41. See, e.g., Jennifer Steinhauer, *For the G.O.P., Visit by Pope Comes with Tensions*, N.Y. TIMES, July 20, 2015, at A1 (indicating that “more than 30 percent” of the members of the current Congress “are Catholic”); Nate Cohn, *A Big Decline in Americans Identifying as Christian*, N.Y. TIMES, May 11, 2015, at A11 (indicating that Roman Catholicism is among the largest religious denominations in the United States, second only to Evangelical Protestantism among those who identify as Christians).

It bears noting, of course, that American Catholics themselves once faced religious prejudice. See, e.g., John F. Kennedy, Democratic Candidate for President of the U.S., Address to Houston Ministers Conference (Sept. 12, 1960), available at <http://www.npr.org/templates/story/story.php?storyId=16920600> (discussing fears that a Catholic president would be unduly influenced by the Church: “I want a chief executive whose public acts are responsible to all groups and obligated to none; who can attend any ceremony, service or dinner his office may appropriately require of him; and whose fulfillment of his presidential oath is not limited or conditioned by any religious oath, ritual or obligation. This is the kind of America I believe in, and this is the kind I fought for in the South Pacific, and the kind my brother died for in Europe. No one suggested then that we may have a ‘divided loyalty,’ that we did ‘not believe in liberty,’ or that we belonged to a disloyal group that threatened the ‘freedoms for which our forefathers died.’”) (accessed June 17, 2015; copy on file with Journal of Appellate Practice and Process).

written movingly about her experiences with racial prejudice?<sup>42</sup> Might it be that the four dissenters in *Town of Greece*, each a member of a religious or racial minority, understood more readily, as Justice Sotomayor put it, “someone else’s point of view”?<sup>43</sup> Might the justices in the majority have lacked that understanding? And might this be why Justice Kagan so carefully set out the dilemma facing a Muslim woman who might attend a meeting of the town council in Greece, New York?<sup>44</sup>

These are important questions. Like all constitutional decisions by the Supreme Court, *Town of Greece* describes trends and practices that go beyond the specific facts of the case. It matters so much because of what it permits and, perhaps, portends. It has immediate effects and long-term implications. Its evolution in future cases bears close watching.

#### IV. CONCLUSION: THE CONTINUING RELEVANCE OF WASHINGTON’S LETTER

Americans of all religious traditions are blessed to be living in this moment in this place. Given the deadly sectarian strife in so much of the world, we are especially fortunate that our Constitution precludes a government-established religion and protects minority rights. But we should remember that lawsuits to enforce constitutional rights are usually measures of last resort. They only become necessary when conflicts arise that might have been avoided by other means. If the town officials in Greece, more mindful of the religious diversity of this country, had made an extra effort to find prayer givers for the town council meetings from 1999 to 2007 who were not all Christian ministers, they could have avoided the years of litigation that vindicated their prayer practices at a high cost for the rest of us—a decision of the Supreme Court that is so contrary to the

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42. See generally SONIA SOTOMAYOR, MY BELOVED WORLD (2013).

43. See *id.* at 97; see also *id.* at 96–97 (reflecting on the collapse of civilized behavior among the marooned boys in William Golding’s *Lord of the Flies*, and remembering that she was only fifteen when she began to understand “how it is that things break down,” concluding that the rituals, rules, and routines that enable a society to function properly begin to erode when “people can’t imagine someone else’s point of view”).

44. See *supra* pp. 109–110.

inclusive spirit of George Washington's letter to the Jews of Newport.

Even if court decisions disappoint us, however, the inclusive spirit of Washington's letter should still inspire our conduct. We do not need to be protected from each other by the government if we build our own "bridges of appreciation and understanding"<sup>45</sup> between religious minorities and the larger community through education, outreach, and civic leadership. Our respective religious traditions urge such efforts. Here, for example, are words from a Jewish prayer book:

[D]o I not share some responsibility for the social evils which I see, hear about, and read about daily? Have I always used my opportunities as a citizen to relieve suffering, to speak out against injustice, to promote harmony in the life of my city, my country, and the nations of the world?<sup>46</sup>

Here are words from a series of Muslim prayers:

Please help us stop those who oppress, whether [they] be of our nation, race or tribe or not. . . . Give us the strength to work for the good of all humanity and against what is harmful to all of us. . . . Let our children learn from our errors and work to establish a safer, more peaceful and just world for all.<sup>47</sup>

And here are words from a Christian prayer:

God, we are Your children. Grant us the courage and strength to work for justice, and in this way, live out our call to be peacemakers.<sup>48</sup>

There are echoes in these prayers of the advice George Washington gave to the Jews of Newport in 1790, when he

45. Maine Jewish Museum, *Our Mission*, available at [http://www.treeoflifemuseum.org/info.php?info\\_id=17](http://www.treeoflifemuseum.org/info.php?info_id=17) (accessed Sept. 16, 2015; copy on file with Journal of Appellate Practice and Process).

46. GATES OF REPENTANCE: THE NEW UNION PRAYERBOOK FOR THE DAYS OF AWE 325 (1996).

47. SoundVision.com, *Peace and Justice, Dzas for Humanity on the One-Year Anniversary of 9/11*, available at <http://www.soundvision.com/article/dzas-for-humanity-on-the-one-year-anniversary-of-911> (accessed Sept. 16, 2015; copy on file with Journal of Appellate Practice and Process).

48. Jane Deren, *Justice and Peace Prayer*, available at <https://educationforjustice.org/resources/justice-and-peace-prayer> (accessed Oct. 1, 2015; copy on file with Journal of Appellate Practice and Process).

reminded them that they would enjoy the protection of the government, the good will of the community, and the safety of the vine and fig tree only if they demeaned themselves as good citizens. That was wise counsel for Americans of all religious traditions in 1790, and it remains wise counsel today. In the end, as Washington knew so well, we bear a large measure of responsibility for our own well-being.

